

53A-1a-101. Short title.

This chapter is known as the "Utah Strategic Planning Act for Educational Excellence."

Enacted by Chapter 47, 1992 General Session

53A-1a-103. Public education's vision and mission.

(1) The Legislature envisions an educated citizenry that encompasses the following foundational principles:

- (a) citizen participation in civic and political affairs;
- (b) economic prosperity for the state by graduating students who are college and career ready;
- (c) strong moral and social values; and
- (d) loyalty and commitment to constitutional government.

(2) The Legislature recognizes that public education's mission is to assure Utah the best educated citizenry in the world and each individual the training to succeed in a global society by providing students with:

- (a) learning and occupational skills;
- (b) character development;
- (c) literacy and numeracy;
- (d) high quality instruction;
- (e) curriculum with high standards and relevance; and
- (f) effective assessment to inform high quality instruction and accountability.

(3) The Legislature:

- (a) recognizes that parents or guardians are a child's first teachers and are responsible for the education of their children;
- (b) encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and
- (c) intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.

(4) This section will be applied consistent with Section 53A-13-109.

Amended by Chapter 123, 2012 General Session

53A-1a-104. Characteristics of public education system.

The Legislature shall assist in maintaining a public education system that has the following characteristics:

- (1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;
- (2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent or guardian, and school personnel in establishing the plan;
- (3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;

- (4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;
- (5) offers a world-class core curriculum that enables students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;
- (6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;
- (7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the State Board of Education, the State Board of Regents, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;
- (8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this chapter;
- (9) uses technology to improve teaching and learning processes and for the delivery of educational services;
- (10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;
- (11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;
- (12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and
- (13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Amended by Chapter 315, 2003 General Session

53A-1a-105. Parental participation in educational process -- Employer support.

- (1) The Legislature recognizes the importance of parental participation in the educational process in order for students to achieve and maintain high levels of performance.
- (2) It is, therefore, the policy of the state to:
 - (a) encourage parents to provide a home environment that values education and send their children to school prepared to learn;
 - (b) rely upon school districts and schools to provide opportunities for parents of students to be involved in establishing and implementing educational goals for their respective schools and students; and
 - (c) expect employers to recognize the need for parents and members of the community to participate in the public education system in order to help students achieve and maintain excellence.
- (3) (a) Each local school board shall adopt a policy on parental involvement in the schools of the district.
- (b) The board shall design its policy to build consistent and effective communication among parents, teachers, and administrators.

(c) The policy shall provide parents with the opportunity to be actively involved in their children's education and to be informed of:

(i) the importance of the involvement of parents in directly affecting the success of their children's educational efforts; and

(ii) groups and organizations that may provide instruction and training to parents to help improve their children's academic success and support their academic efforts.

Amended by Chapter 59, 2000 General Session

53A-1a-105.5. Parental permission required for specified in-home programs -- Exceptions.

(1) The State Board of Education, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.

(2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with Title 62A, Chapter 4a, or any other in-home services that have been court ordered, pursuant to Title 62A, Chapter 4a, or Title 78A, Chapter 6, Juvenile court Act of 1996.

Amended by Chapter 3, 2008 General Session

53A-1a-106. School district and individual school powers -- Student education/occupation plan (SEOP) definition.

(1) In order to acquire and develop the characteristics listed in Section 53A-1a-104, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in required skills and mastery of required knowledge through the use of diverse assessment instruments such as authentic and criterion referenced tests, projects, and portfolios.

(2) (a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) provide for teacher and parent involvement in policymaking at the school site;

(iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

(iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

(v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

(vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

(vii) involve business and industry in the education process through the

establishment of partnerships with the business community at the district and school level.

(b) (i) As used in this title, "student education/occupation plan" or "SEOP" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers, and administrators that:

- (A) is initiated at the beginning of grade 7;
- (B) identifies a student's skills and objectives;
- (C) maps out a strategy to guide a student's course selection; and
- (D) links a student to post-secondary options, including higher education and careers.

(ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of a personalized student education plan (SEP) or student education/occupation plan (SEOP) for each student at the school site.

(iii) The policies shall include guidelines and expectations for:

- (A) recognizing the student's accomplishments, strengths, and progress towards meeting student achievement standards as defined in U-PASS;
- (B) planning, monitoring, and managing education and career development; and
- (C) involving students, parents, and school personnel in preparing and implementing SEPs and SEOPs.

(iv) A parent may request conferences with school personnel in addition to SEP or SEOP conferences established by local school board policy.

(v) Time spent during the school day to implement SEPs and SEOPs is considered part of the school term referred to in Subsection 53A-17a-103(4).

(3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53A-1a-104.

(4) (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.

(b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Amended by Chapter 315, 2012 General Session

53A-1a-107. State Board of Education assistance to districts and schools.

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section 53A-1a-104, the State Board of Education shall:

(1) provide the framework for an education system, including core competencies and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;

(2) develop and disseminate a state model curriculum, structured to incorporate the concepts of quality versus quantity, depth versus breadth, subject integration and application, applied thinking skills, character development, and a global prospective, which districts and schools may use to assist teachers in helping students acquire the competencies and skills required to advance through the public education system, and

periodically review and, if appropriate, revise the curriculum;

(3) conduct a statewide public awareness program on competency-based educational systems;

(4) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;

(5) promote a public education climate of high expectations and academic excellence;

(6) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b);

(7) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53A-1a-103;

(8) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;

(9) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53A-1a-104(7) and 53A-6-102(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and

(10) in concert with the State Board of Regents and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

Amended by Chapter 221, 2003 General Session

53A-1a-108. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Educator" has the meaning defined in Section 53A-6-103.

(b) (i) "Parent or guardian member" means a member of a school community council who is a parent or guardian of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's or guardian's term of office.

(ii) "Parent or guardian member" may not include an educator who is employed at the school.

(c) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(d) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53A-16-101.5.

(2) Each public school, in consultation with its local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents or guardians of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents and guardians, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution

Article X, Section V; and

(iii) educational excellence.

(3) (a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create a school improvement plan in accordance with Section 53A-1a-108.5;

(ii) create the School LAND Trust Program in accordance with Section 53A-16-101.5;

(iii) assist in the creation and implementation of a professional development plan; and

(iv) advise and make recommendations to school and school district administrators and the local school board regarding the school and its programs, school district programs, a child access routing plan in accordance with Section 53A-3-402, and other issues relating to the community environment for students.

(b) In addition to the duties specified in Subsection (3)(a), a school community council for an elementary school shall create a reading achievement plan in accordance with Section 53A-1-606.5.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4) (a) Each school community council shall consist of school employee members and parent or guardian members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent or guardian members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent or guardian members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent or guardian members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d) (i) The number of parent or guardian members of a school community

council who are not educators employed by the school district shall exceed the number of parent or guardian members who are educators employed by the school district.

(ii) If, after an election, the number of parent or guardian members who are not educators employed by the school district does not exceed the number of parent or guardian members who are educators employed by the school district, the parent or guardian members of the school community council shall appoint one or more parent or guardian members to the school community council so that the number of parent or guardian members who are not educators employed by the school district exceeds the number of parent or guardian members who are educators employed by the school district.

(5) (a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b) (i) Except as provided in Subsection (5)(f), a parent or guardian member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii) Only parents or guardians of students attending the school may vote at the election under Subsection (5)(b)(i).

(iii) Any parent or guardian of a student who meets the qualifications of this section may file or declare the parent's or guardian's candidacy for election to a school community council.

(iv) (A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent or guardian members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent or guardian members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent or guardian members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c) (i) The principal of the school, or the principal's designee, shall provide notice of the available community council positions to school employees, parents, and guardians at least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e) (i) If a parent or guardian position on a school community council remains

unfilled after an election is held, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two-year term.

(f) (i) If the number of candidates who file for a parent or guardian position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent or guardian position remains unfilled, the other parent or guardian members of the council shall appoint a parent or guardian who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53A-1a-108.1.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent or guardian member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent or guardian members; and

(ii) a vice chair from either its parent or guardian members or school employee members, excluding the principal.

(6) (a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents or guardians, school employees, or other community members.

(7) (a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

- (b) on resources available on the School LAND Trust website; and
- (c) on the following statutes governing school community councils:
 - (i) Section 53A-1a-108;
 - (ii) Section 53A-1a-108.1;
 - (iii) Section 53A-1a-108.5; and
 - (iv) Section 53A-16-101.5.

Amended by Chapter 332, 2014 General Session
 Amended by Chapter 346, 2014 General Session

53A-1a-108.1. School community councils -- Open and public meeting requirements.

- (1) A school community council established under Section 53A-1a-108:
 - (a) shall conduct deliberations and take action openly as provided in this section; and
 - (b) is exempt from Title 52, Chapter 4, Open and Public Meetings Act.
- (2) As required by Section 53A-1a-108, a local school board shall provide training for the members of a school community council on this section.
- (3) (a) A meeting of a school community council is open to the public.
- (b) A school community council may not close any portion of a meeting.
- (4) A school community council shall, at least one week prior to a meeting, post the following information on the school's website:
 - (a) a notice of the meeting, time, and place;
 - (b) an agenda for the meeting; and
 - (c) the minutes of the previous meeting.
- (5) (a) On or before October 20, a principal shall post the following information on the school website and in the school office:
 - (i) the proposed school community council meeting schedule for the year;
 - (ii) a telephone number or email address, or both, where each school community council member can be reached directly; and
 - (iii) a summary of the annual report required under Section 53A-16-101.5 on how the school's School LAND Trust Program money was used to enhance or improve academic excellence at the school and implement a component of the school's improvement plan.
- (b) (i) A school community council shall identify and use methods of providing the information listed in Subsection (5)(a) to a parent or guardian who does not have Internet access.
- (ii) Money allocated to a school under the School LAND Trust Program created in Section 53A-16-101.5 may not be used to provide information as required by Subsection (5)(b)(i).
- (6) (a) The notice requirement of Subsection (4) may be disregarded if:
 - (i) because of unforeseen circumstances it is necessary for a school community council to hold an emergency meeting to consider matters of an emergency or urgent nature; and
 - (ii) the school community council gives the best notice practicable of:
 - (A) the time and place of the emergency meeting; and

(B) the topics to be considered at the emergency meeting.

(b) An emergency meeting of a school community council may not be held unless:

(i) an attempt has been made to notify all the members of the school community council; and

(ii) a majority of the members of the school community council approve the meeting.

(7) (a) An agenda required under Subsection (4)(b) shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting.

(b) Each topic described in Subsection (7)(a) shall be listed under an agenda item on the meeting agenda.

(c) A school community council may not take final action on a topic in a meeting unless the topic is:

(i) listed under an agenda item as required by Subsection (7)(b); and

(ii) included with the advance public notice required by Subsection (4).

(8) (a) Written minutes shall be kept of a school community council meeting.

(b) Written minutes of a school community council meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) a brief statement of the matters proposed, discussed, or decided;

(iv) a record, by individual member, of each vote taken;

(v) the name of each person who:

(A) is not a member of the school community council; and

(B) after being recognized by the chair, provided testimony or comments to the school community council;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (8)(b)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes.

(c) The written minutes of a school community council meeting:

(i) are a public record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) shall be retained for three years.

(9) (a) As used in this Subsection (9), "rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(i) parliamentary order and procedure;

(ii) ethical behavior; and

(iii) civil discourse.

(b) A school community council shall:

(i) adopt rules of order and procedure to govern a public meeting of the school community council;

(ii) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (9)(b)(i); and

(iii) make the rules of order and procedure described in Subsection (9)(b)(i) available to the public:

(A) at each public meeting of the school community council; and

(B) on the school's website.

Amended by Chapter 332, 2014 General Session

53A-1a-108.5. School improvement plan.

(1) (a) Each school community council shall annually evaluate the school's U-PASS test results and use the evaluations in developing a school improvement plan.

(b) In evaluating U-PASS test results and developing a school improvement plan, a school community council may not have access to data that reveal the identity of students.

(2) Each school improvement plan shall:

(a) identify the school's most critical academic needs;

(b) recommend a course of action to meet the identified needs;

(c) list any programs, practices, materials, or equipment that the school will need to implement its action plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(d) describe how the school intends to enhance or improve academic achievement, including how financial resources available to the school, such as School LAND Trust Program money received under Section 53A-16-101.5 and state and federal grants, will be used to enhance or improve academic achievement.

(3) The school improvement plan shall focus on the school's most critical academic needs but may include other actions to enhance or improve academic achievement and community environment for students.

(4) The school principal shall make available to the school community council the school budget and other data needed to develop the school improvement plan.

(5) The school improvement plan shall be subject to the approval of the local school board of the school district in which the school is located.

(6) A school community council may develop a multiyear school improvement plan, but the plan must be presented to and approved annually by the local school board.

(7) Each school shall:

(a) implement the school improvement plan as developed by the school community council and approved by the local school board;

(b) provide ongoing support for the council's plan; and

(c) meet local school board reporting requirements regarding performance and accountability.

Enacted by Chapter 324, 2002 General Session

53A-1a-110. Computer program for students with autism and other special needs.

(1) As used in this section, "board" means the State Board of Education.

(2) To improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2, the board shall contract with a provider, selected through a request for proposals process, to provide computer software programs and activity manuals.

- (3) In evaluating proposals submitted under Subsection (2), the board shall:
- (a) ensure that the board's evaluation criteria weighs heavily the proposer's ability and experience to provide computer software programs and activity manuals to improve social skills and student achievement for students with autism and other special needs in pre-school through grade 2;
 - (b) consider, in evaluating the proposer's ability and experience, any quantitative and evaluative results from field testing, state tests, and other standardized achievement tests;
 - (c) ensure that the board's evaluation criteria weighs heavily the proposer's ability to:
 - (i) collect data from each computer using the computer software, regardless of where the computer is located;
 - (ii) provide students access to the proposer's program from any computer with internet access;
 - (iii) enable reporting of student progress to administrators, teachers, parents, and other facilitators; and
 - (iv) record a student's progress in the computer software; and
 - (d) consider the extent to which the computer software program uses engaging animation to teach students.
- (4) The board shall provide the computer software programs and activity manuals procured under this section to school districts and charter schools that demonstrate a commitment by the school principal and staff to implement the computer software programs and activity manuals as prescribed by the provider.

Enacted by Chapter 412, 2012 General Session

53A-1a-501. Short title.

This part is known as "The Utah Charter Schools Act."

Enacted by Chapter 231, 1998 General Session

53A-1a-501.3. Definitions.

As used in this part:

- (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:
- (a) cash;
 - (b) stock or other investments;
 - (c) real property;
 - (d) equipment and supplies;
 - (e) an ownership interest;
 - (f) a license;
 - (g) a cause of action; and
 - (h) any similar property.
- (2) "Board of trustees of a higher education institution" or "board of trustees" means:
- (a) the board of trustees of:

- (i) the University of Utah;
 - (ii) Utah State University;
 - (iii) Weber State University;
 - (iv) Southern Utah University;
 - (v) Snow College;
 - (vi) Dixie State University;
 - (vii) Utah Valley University; or
 - (viii) Salt Lake Community College; or
 - (b) the campus board of directors of a college campus within the Utah College of Applied Technology.
- (3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53A-1a-508, that authorizes the operation of a charter school.
- (4) "Charter school authorizer" or "authorizer" means the State Charter School Board, local school board, or board of trustees of a higher education institution that authorizes the establishment of a charter school.
- (5) "Governing board" means the board that operates a charter school.

Amended by Chapter 363, 2014 General Session

53A-1a-501.5. State Charter School Board created.

- (1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.
- (2) (a) The State Charter School Board is created consisting of the following members appointed by the governor:
- (i) two members who have expertise in finance or small business management;
 - (ii) three members who:
 - (A) are nominated by an organization that represents Utah's charter schools;
- and
- (B) have expertise or experience in developing or administering a charter school; and
 - (iii) two members who are nominated by the State Board of Education.
- (b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53A-1a-503.
- (c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).
- (d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.
- (3) (a) State Charter School Board members shall serve four-year terms.
- (b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired term.
- (4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (5) (a) The State Charter School Board shall annually elect a chair from its membership.

- (b) Four members of the board shall constitute a quorum.
- (c) Meetings may be called by the chair or upon request of three members of the board.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 429, 2011 General Session

53A-1a-501.6. Power and duties of State Charter School Board.

- (1) The State Charter School Board shall:
 - (a) authorize and promote the establishment of charter schools, subject to the provisions in this part;
 - (b) annually review and evaluate the performance of charter schools authorized by the State Charter School Board and hold the schools accountable for their performance;
 - (c) monitor charter schools authorized by the State Charter School Board for compliance with federal and state laws, rules, and regulations;
 - (d) provide technical support to charter schools and persons seeking to establish charter schools by:
 - (i) identifying and promoting successful charter school models;
 - (ii) facilitating the application and approval process for charter school authorization;
 - (iii) directing charter schools and persons seeking to establish charter schools to sources of private funding and support;
 - (iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; and
 - (v) assisting charter schools to understand and carry out their charter obligations;
 - (e) provide technical support, as requested, to a charter school authorizer relating to charter schools;
 - (f) make recommendations on legislation and rules pertaining to charter schools to the Legislature and State Board of Education, respectively; and
 - (g) make recommendations to the State Board of Education on the funding of charter schools.
- (2) The State Charter School Board may:
 - (a) contract;
 - (b) sue and be sued; and
 - (c) (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and
 - (ii) charge fees for the provision of services or functions.

Amended by Chapter 363, 2014 General Session

53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.

(1) (a) The State Charter School Board, with the consent of the superintendent of public instruction, shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director with the consent of the superintendent of public instruction.

(c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The superintendent of public instruction shall provide space for staff of the State Charter School Board in facilities occupied by the Utah State Office of Education, with costs charged for the facilities equal to those charged other sections and divisions within the Utah State Office of Education and Utah State Office of Rehabilitation.

Amended by Chapter 319, 2008 General Session

53A-1a-501.9. State Charter School Board to request applications for certain types of charter schools.

(1) To meet the unique learning styles and needs of students, the State Charter School Board shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.

(2) (a) The State Charter School Board shall request individuals, groups of individuals, or not-for-profit legal entities to submit an application to the State Charter School Board to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:

- (i) a military charter school;
- (ii) a charter school whose mission is to enhance learning opportunities for students at risk of academic failure;
- (iii) a charter school whose focus is career and technical education;
- (iv) a single gender charter school; or
- (v) a charter school with an international focus that provides opportunities for the exchange of students or teachers.

(b) In addition to a charter school identified in Subsection (2)(a), the State Charter School Board shall request applications for other types of charter schools that meet the unique learning styles and needs of students.

(3) The State Charter School Board shall publicize a request for applications to establish a charter school specified in Subsection (2).

(4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures specified in Section 53A-1a-505.

(5) The State Charter School Board and the State Board of Education may approve one or more applications for each charter school specified in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as provided in Section 53A-1a-502.5.

(6) The State Board of Education shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools

tentatively approved under this section.

Enacted by Chapter 376, 2013 General Session

53A-1a-502.5. Approval of increase in charter school enrollment capacity.

(1) For the purposes of this section:

(a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.

(b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.

(2) The State Board of Education may approve an increase in charter school enrollment capacity in the 2012-13 school year or thereafter subject to the Legislature:

(a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or

(b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.

(3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.

(4) (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.

(b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.

(c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.

(d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.

(5) (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.

(b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.

(6) (a) Except as provided in Subsection (5)(b) or (6)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the State Board of Education shall give:

(i) high priority to approving a new charter school or a charter school expansion in a high growth area; and

(ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.

(b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (6)(a)(i).

Amended by Chapter 406, 2014 General Session

53A-1a-503. Purpose.

The purposes of the state's charter schools as a whole are to:

- (1) continue to improve student learning;
- (2) encourage the use of different and innovative teaching methods;
- (3) create new professional opportunities for educators that will allow them to actively participate in designing and implementing the learning program at the school;
- (4) increase choice of learning opportunities for students;
- (5) establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools;
- (6) provide opportunities for greater parental involvement in management decisions at the school level; and
- (7) expand public school choice in areas where schools have been identified for school improvement, corrective action, or restructuring under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

Amended by Chapter 319, 2008 General Session

53A-1a-503.5. Status of charter schools.

- (1) Charter schools are:
 - (a) considered to be public schools within the state's public education system;
 - (b) subject to Subsection 53A-1-401(3); and
 - (c) governed by independent boards and held accountable to a legally binding written contractual agreement.
- (2) A charter school may be established by:
 - (a) creating a new school; or
 - (b) converting an existing public school to charter status.
- (3) A parochial school or home school is not eligible for charter school status.

Amended by Chapter 363, 2014 General Session

53A-1a-504. Charter school application -- Applicants -- Contents -- Expansion.

- (1) (a) An application to establish a charter school may be submitted by:
 - (i) an individual;
 - (ii) a group of individuals; or
 - (iii) a nonprofit legal entity organized under Utah law.
- (b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

- (2) A charter school application shall include:
 - (a) the purpose and mission of the school;
 - (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
 - (c) a description of the governance structure of the school, including:
 - (i) a list of the governing board members that describes the qualifications of each member; and
 - (ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;
 - (d) a description of the target population of the school that includes:
 - (i) the projected maximum number of students the school proposes to enroll;
 - (ii) the projected school enrollment for each of the first three years of school operation; and
 - (iii) the ages or grade levels the school proposes to serve;
 - (e) academic goals;
 - (f) qualifications and policies for school employees, including policies that:
 - (i) require completion of a criminal background check for teachers;
 - (ii) require employee evaluations; and
 - (iii) address employment of relatives within the charter school;
 - (g) a description of how the charter school will provide, as required by state and federal law, special education and related services;
 - (h) for a public school converting to charter status, arrangements for:
 - (i) students who choose not to continue attending the charter school; and
 - (ii) teachers who choose not to continue teaching at the charter school;
 - (i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:
 - (i) whether the charter school intends to lease or purchase the charter school's facilities; and
 - (ii) financing arrangements;
 - (j) a market analysis of the community the school plans to serve;
 - (k) a capital facility plan;
 - (l) a business plan;
 - (m) other major issues involving the establishment and operation of the charter school; and
 - (n) the signatures of the governing board members of the charter school.
- (3) A charter school authorizer may require a charter school application to include:
 - (a) the charter school's proposed:
 - (i) curriculum;
 - (ii) instructional program; or
 - (iii) delivery methods;
 - (b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;
 - (c) a proposed calendar;

- (d) sample policies;
- (e) a description of opportunities for parental involvement;
- (f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or
- (g) other information that demonstrates an applicant's ability to establish and operate a charter school.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules regarding the expansion of a charter school, including establishing a satellite campus, that provide:

- (a) requirements for a charter school to apply and qualify for expansion; and
- (b) procedures and deadlines for the application process.

Repealed and Re-enacted by Chapter 363, 2014 General Session

53A-1a-505. Charter schools authorized by the State Charter School Board -- Application process -- Prohibited bases of application denial.

(1) (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.

(b) The local board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) The State Board of Education shall, by majority vote, within 60 days after action by the State Charter School Board under Subsection (1)(d):

- (i) approve or deny an application approved by the State Charter School Board; or
- (ii) hear an appeal, if any, of an application denied by the State Charter School Board.

(f) The State Board of Education's action under Subsection (1)(d) is final action subject to judicial review.

(g) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(2) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section 53A-1a-508, the applicant and the State Charter School Board shall set forth the terms

and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with State Board of Education rules, establish and make public the State Charter School Board's:

- (a) application requirements, in accordance with Section 53A-1a-504;
- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 363, 2014 General Session

53A-1a-506. Eligible students.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.

(3) (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, students shall be selected on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of a student presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) students articulating between charter schools offering similar programs that are governed by the same governing board;

(f) students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or

(g) students who reside within:

(i) the school district in which the charter school is located;

(ii) the municipality in which the charter school is located; or

(iii) a two-mile radius of the charter school.

(5) (a) Except as provided in Subsection (5)(b), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area shall give an enrollment preference to students who reside within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53A-1a-502.5(6)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight its lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

- (a) low-income students;
- (b) students with disabilities;
- (c) English language learners;
- (d) migrant students;
- (e) neglected or delinquent students; and
- (f) homeless students.

(9) A charter school may not discriminate in its admission policies or practices on the same basis as other public schools may not discriminate in their admission policies and practices.

Amended by Chapter 291, 2014 General Session

Amended by Chapter 363, 2014 General Session

Amended by Chapter 406, 2014 General Session

53A-1a-506.5. Charter school students -- Admissions procedures -- Transfers.

(1) As used in this section:

(a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(b) "Nonresident school district" means a school district other than a student's school district of residence.

(c) "School district of residence" means a student's school district of residence as determined under Section 53A-2-201.

(d) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.

(2) (a) The State School Board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.

(b) The rules under Subsection (2)(a) shall, at a minimum, provide for:

(i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:

(A) procedures for applying for admission to the charter school;

(B) the school's opening date, if the school has not yet opened, or the school calendar; and

(C) information on how a student may transfer from a charter school to another charter school or a district school;

(ii) written notification to a student's parent or legal guardian of an offer of admission;

(iii) written acceptance of an offer of admission by a student's parent or legal guardian;

(iv) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and

(v) the admission of students at:

(A) any time to protect the health or safety of a student; or

(B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.

(c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).

(3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:

(a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;

(b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;

(c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;

(d) a letter of acceptance for enrollment in a nonresident school district; or

(e) a letter of acceptance for enrollment in a charter school.

(4) (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.

(b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.

(5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.

(6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.

(7) (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of

residence by June 30.

(b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:

(i) the student's grade level, if the student is an elementary school student; or
(ii) the core classes that the student needs to take, if the student is a secondary school student.

(c) State Board of Education rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).

(8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.

(9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Amended by Chapter 363, 2014 General Session

53A-1a-507. Requirements for charter schools.

(1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4) (a) A charter school shall make the same annual reports required of other public schools under this title, including an annual financial audit report.

(b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(5) (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;
(ii) a report submitted by the charter school as required by statute; or
(iii) a report submitted by the charter school as required by its charter.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53A-1a-503 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53A-1a-515, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance.

(9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.

(10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section 53A-6-501.

Amended by Chapter 363, 2014 General Session

53A-1a-507.1. Charter school innovative practices -- Report to State Charter School Board.

Prior to July 31 of each year, a charter school may identify and report to the State Charter School Board its innovative practices which fulfill the purposes of charter schools as outlined in Section 53A-1a-503, including:

- (1) unique learning opportunities providing increased choice in education;
- (2) new public school models;
- (3) innovative teaching practices;
- (4) opportunities for educators to actively participate in the design and implementation of the learning program;
- (5) new forms of accountability emphasizing the measurement of learning outcomes and the creation of new measurement tools;
- (6) opportunities for greater parental involvement, including involvement in management decisions; and
- (7) the impact of the innovative practices on student achievement.

Enacted by Chapter 74, 2005 General Session

53A-1a-508. Charter agreement -- Content -- Modification.

- (1) A charter agreement:
 - (a) is a contract between the charter school applicant and the charter school authorizer;
 - (b) shall describe the rights and responsibilities of each party; and
 - (c) shall allow for the operation of the applicant's proposed charter school.
- (2) A charter agreement shall include:
 - (a) the name of:
 - (i) the charter school; and
 - (ii) the charter school applicant;
 - (b) the mission statement and purpose of the charter school;
 - (c) the charter school's opening date;
 - (d) the grade levels and number of students the charter school will serve;
 - (e) a description of the structure of the charter school's governing board, including:
 - (i) the number of board members;

- (ii) how members of the board are appointed; and
 - (iii) board members' terms of office;
 - (f) assurances that:
 - (i) the governing board shall comply with:
 - (A) the charter school's bylaws;
 - (B) the charter school's articles of incorporation; and
 - (C) applicable federal law, state law, and State Board of Education rules;
 - (ii) the governing board will meet all reporting requirements described in Section 53A-1b-115; and
 - (iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;
 - (g) which administrative rules the State Board of Education will waive for the charter school;
 - (h) minimum financial standards for operating the charter school;
 - (i) minimum standards for student achievement; and
 - (j) signatures of the charter school authorizer and the charter school's governing board members.
- (3) A charter agreement may not be modified except by mutual agreement between the charter school authorizer and the governing board of the charter school.

Repealed and Re-enacted by Chapter 363, 2014 General Session

53A-1a-509. Noncompliance -- Rulemaking.

- (1) If a charter school is found to be out of compliance with the requirements of Section 53A-1a-507 or the school's charter, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53A-1a-510(4):
- (a) the governing board of the charter school; and
 - (b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.
- (2) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:
- (a) subject to the requirements of Subsection (4), take one or more of the following actions:
 - (i) remove a charter school director or finance officer;
 - (ii) remove a governing board member; or
 - (iii) appoint an interim director or mentor to work with the charter school; or
 - (b) subject to the requirements of Section 53A-1a-510, terminate the school's charter.
- (3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.
- (4) The authorizer shall notify the Utah Charter School Finance Authority before

the authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:

- (a) specifying the timeline for remedying deficiencies under Subsection (1); and
- (b) ensuring the compliance of a charter school with its approved charter.

Amended by Chapter 363, 2014 General Session

53A-1a-510. Termination of a charter.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:

- (a) failure of the charter school to meet the requirements stated in the charter;
- (b) failure to meet generally accepted standards of fiscal management;
- (c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
- (d) violation of requirements under this part or another law; or
- (e) other good cause shown.

(2) (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:

- (i) the governing board of the charter school; and
- (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.

(d) (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).

(ii) The State Board of Education's action is final action subject to judicial review.

(e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

- (A) the governing board of the qualifying charter school; and
- (B) the Utah Charter School Finance Authority.

(ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.

(3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.

(6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:

- (a) the school district where the charter school is located;
- (b) the governing board of another charter school; or
- (c) a private management company.

(7) (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 2, Part 2, District of Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

(8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Amended by Chapter 363, 2014 General Session

53A-1a-510.5. Charter school closure.

(1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53A-1a-510 or the conversion of a charter school to a private school, the provisions of this section apply.

(2) (a) As soon as possible after the decision is made to close a charter school, notification of the decision, in writing, shall be provided by the charter school to:

- (i) its charter school authorizer;
- (ii) the State Charter School Board;
- (iii) the State Board of Education;
- (iv) parents of its students;
- (v) its creditors; and
- (vi) the school district in which the charter school is located and other charter schools located in that school district.

(b) The notification under Subsection (2)(a) shall include:

- (i) the proposed date of school closure;
- (ii) the school's plans to help students identify and transition into a new school;

and

- (iii) contact information for the charter school during the transition.
- (3) A closing charter school shall:
 - (a) present a school closure plan to its authorizer as soon as possible after the decision to close is made;
 - (b) designate a custodian for the protection of student files and school business records;
 - (c) maintain a base of operation throughout the charter school closing, including:
 - (i) an office;
 - (ii) hours of operation; and
 - (iii) operational telephone service with voice messaging stating the hours of operation;
 - (d) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the authorizer;
 - (e) complete a financial audit immediately after the decision to close is made;
 - (f) inventory all assets of the charter school;
 - (g) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests; and
 - (h) protect all school assets against theft, misappropriation, and deterioration.
- (4) (a) Any assets held subject to written conditions or limitations in accordance with Section 53A-1a-517 shall be disposed of in accordance with those conditions or limitations.
 - (b) All liabilities and obligations of the closing charter school shall be paid and discharged or adequate provisions shall be made to discharge the liabilities and obligations to the extent of the closing school's assets.
 - (c) (i) The remaining assets shall be returned to the closing charter school's authorizer.
 - (ii) The authorizer may liquidate assets at fair market value or assign the assets to another public school.
- (5) To the extent possible, all leases, service agreements, and other contracts not necessary for the transition of the closing charter school should be terminated.
- (6) The closing charter school shall submit all documentation required by its authorizer, including documents to verify its compliance with procedural requirements as well as satisfaction of all financial issues.
- (7) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.
- (8) The State Board of Education may make rules that provide additional closure requirements upon charter schools or that specify elements of charter school closure plans.

Amended by Chapter 363, 2014 General Session

53A-1a-511. Waivers from state board rules -- Application of statutes and rules to charter schools.

- (1) A charter school shall operate in accordance with its charter and is subject to

Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.

(2) (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.

(b) The state board may grant the waiver, unless:

(i) the waiver would cause the school district or the school to be in violation of state or federal law; or

(ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.

(c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.

(3) (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:

(a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;

(b) Sections 53A-3-413 and 53A-3-414, pertaining to the use of school buildings as civic centers;

(c) Section 53A-3-420, requiring the use of activity disclosure statements;

(d) Section 53A-12-207, requiring notification of intent to dispose of textbooks;

(e) Section 53A-13-107, requiring annual presentations on adoption;

(f) Chapter 19, Part 1, Fiscal Procedures, pertaining to fiscal procedures of school districts and local school boards; and

(g) Section 53A-14-107, requiring an independent evaluation of instructional materials.

(5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school shall be considered a local public procurement unit.

(6) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b) (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.

(ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Amended by Chapter 347, 2012 General Session

53A-1a-512. Employees of charter schools.

- (1) A charter school shall select its own employees.
- (2) The school's governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this part.
- (3) The following statutes governing public employees and officers do not apply to a charter school:
 - (a) Chapter 8a, Public Education Human Resource Management Act; and
 - (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.
- (4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:
 - (i) are licensed; or
 - (ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.
- (b) The school's governing board shall disclose the qualifications of its teachers to the parents of its students.
- (5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.
- (6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.
- (b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.
- (7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:
 - (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
 - (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
 - (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
- (b) An election under this Subsection (7):
 - (i) shall be documented by a resolution adopted by the governing board of the charter school; and
 - (ii) applies to the charter school as the employer and to all employees of the charter school.
- (c) The governing board of a charter school may offer employee benefit plans for its employees:
 - (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
 - (ii) under any other program.
- (8) A charter school may not revoke an election to participate made under Subsection (7).
- (9) The governing board of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging

that the employee:

- (a) has received:
 - (i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or
 - (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund;
- and
- (b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Amended by Chapter 363, 2014 General Session

53A-1a-512.5. Criminal background checks on school personnel.

The following individuals are required to submit to a criminal background check as provided in Section 53A-3-410:

- (1) an employee of a charter school;
- (2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment; or
- (3) a contract employee, as defined in Section 53A-3-410, who works at a charter school.

Repealed and Re-enacted by Chapter 362, 2010 General Session

53A-1a-513. Funding for charter schools.

- (1) As used in this section:
 - (a) "Charter school students' average local revenues" means the amount determined as follows:
 - (i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;
 - (ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and
 - (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students enrolled in charter schools on the previous October 1.
 - (b) "District local property tax revenues" means the sum of a school district's revenue received from the following levies:
 - (i) (A) a voted levy imposed under Section 53A-17a-133;
 - (B) a board levy imposed under Section 53A-17a-134;
 - (C) a 10% of basic levy imposed under Section 53A-17a-145;
 - (D) a tort liability levy imposed under Section 63G-7-704;
 - (E) a capital outlay levy imposed under Section 53A-16-107; and
 - (F) a voted capital outlay levy imposed under Section 53A-16-110; or
 - (ii) (A) a voted local levy imposed under Section 53A-17a-133;
 - (B) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:
 - (I) recreational facilities and activities authorized under Title 11, Chapter 2,

Playgrounds;

(II) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and

(III) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy; and

(C) a capital local levy imposed under Section 53A-16-113.

(c) "District per pupil local revenues" means an amount equal to the following, using data from the most recently published school district annual financial reports and state superintendent's annual report:

(i) district local property tax revenues; divided by

(ii) the sum of:

(A) a school district's average daily membership; and

(B) the average daily membership of a school district's resident students who attend charter schools.

(d) "Resident student" means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.

(e) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(e)(i) by statewide school district average daily membership.

(2) (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).

(b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.

(b) For the 2013-14 and 2014-15 school years, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:

(i) based on the higher of:

(A) October 1 enrollment in the current school year; or

(B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and

(ii) weighted as provided in Subsection (3)(c).

(c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:

(i) .55 for kindergarten pupils;

(ii) .9 for pupils in grades 1 through 6;

(iii) .99 for pupils in grades 7 through 8; and

(iv) 1.2 for pupils in grades 9 through 12.

(4) (a) (i) A school district shall allocate a portion of school district revenues for each resident student of the school district who is enrolled in a charter school on October 1 equal to 25% of the lesser of:

(A) district per pupil local revenues; or

(B) charter school students' average local revenues.

(ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program established under Chapter 28, Utah School Bond Guaranty Act.

(b) The State Board of Education shall:

(i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and

(ii) remit the money to the student's charter school.

(c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:

(i) unrestricted revenues available to the school district; or

(ii) the revenue sources listed in Subsection (1)(b) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(b).

(d) (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).

(ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:

(A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and

(B) statewide average debt service revenues.

(iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).

(iv) (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

(B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.

(e) Of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.

(5) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.

(6) The State Board of Education shall distribute funds for charter school students directly to the charter school.

(7) (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.

(b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.

(c) The governing body of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or with parents.

(8) (a) (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.

(ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.

(b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.

(9) (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.

(b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Amended by Chapter 470, 2013 General Session

53A-1a-513.5. Charter school start-up costs.

(1) (a) The State Charter School Board shall use money appropriated for charter school start-up costs to provide grants to charter schools to pay for expenses for the planning and implementation of a charter school.

(b) The State Charter School Board:

(i) may use up to 8% of the money appropriated for charter school start-up costs for financial monitoring of new charter schools and to provide professional development or technical assistance for governing board members and staff of new charter schools; and

(ii) in accordance with rules adopted by the State Board of Education, may use up to \$200,000 of the money appropriated for charter school start-up costs for a mentoring program for new and existing charter schools.

(2) The amount of a grant for charter school start-up costs shall be based on the authorized enrollment of the charter school.

(3) The State Board of Education shall make rules consistent with this section specifying:

(a) procedures for applying for and awarding grants for charter school start-up costs;

(b) permitted uses of grant money; and

(c) requirements for a charter school to submit the following to the State Charter

School Board:

- (i) a budget for the grant money; and
 - (ii) a final report on the expenditure of the grant money.
- (4) The State Board of Education shall make rules establishing a mentoring program for new and existing charter schools.

Enacted by Chapter 318, 2012 General Session

53A-1a-514. Tort liability.

(1) An employee of a charter school is a public employee and the governing board is a public employer in the same manner as a local school board for purposes of tort liability.

(2) The governing board of a charter school, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Amended by Chapter 363, 2014 General Session

53A-1a-515. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1) (a) An applicant identified in Section 53A-1a-504 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b) (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

(ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or board policy regarding reduction in staff would apply.

(2) (a) An existing public school that converts to charter status under a charter granted by a local school board may:

(i) continue to receive the same services from the school district that it received prior to its conversion; or

(ii) contract out for some or all of those services with other public or private

providers.

(b) Any other charter school authorized by a local school board may contract with the board to receive some or all of the services referred to in Subsection (3)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

(3) (a) (i) A public school that converts to a charter school under a charter granted by a local school board shall receive funding:

(A) through the school district; and

(B) on the same basis as it did prior to its conversion to a charter school.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(b) (i) A local school board-authorized charter school operating in a facility owned by the school district and not paying reasonable rent to the school district shall receive funding:

(A) through the school district; and

(B) on the same basis that other district schools receive funding.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(c) Subject to the provisions in Section 53A-1a-502.5, a charter school authorized by a local school board shall receive funding as provided in Section 53A-1a-513.

(d) (i) A charter school authorized by a local school board, but not described in Subsection (3)(a), (b), or (c) shall receive funding:

(A) through the school district; and

(B) on the same basis that other district schools receive funding.

(ii) The school may also receive federal money designated for charter schools under any federal program.

(4) (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.

(b) If the board rejects the application, it shall notify the applicant in writing of the reason for the rejection.

(c) The applicant may submit a revised application for reconsideration by the board.

(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from the State Charter School Board under Section 53A-1a-505.

(5) The State Board of Education shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.

(6) After approval of a charter school application and in accordance with Section 53A-1a-508, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(7) A local school board shall:

(a) annually review and evaluate the performance of charter schools authorized by the local school board and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the local school board for compliance

with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the local school board to assist them in understanding and performing their charter obligations.

(8) A local school board may terminate a charter school it authorizes as provided in Sections 53A-1a-509 and 53A-1a-510.

(9) In addition to the exemptions described in Sections 53A-1a-511 and 53A-1a-512, a charter school authorized by a local school board is:

(a) not required to separately submit a report or information required under this title to the State Board of Education if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section 53A-1a-507 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(10) Before a local school board accepts a charter school application, the local school board shall, in accordance with State Board of Education rules, establish and make public the local school board's:

(a) application requirements, in accordance with Section 53A-1a-504;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Amended by Chapter 363, 2014 General Session

53A-1a-517. Charter school assets.

(1) (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this part.

(b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1) shall be presumed to be made to the charter school and shall be included in the charter school's assets.

(2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

(3) All assets purchased with charter school funds shall be included in the charter school's assets.

(4) A charter school may not dispose of its assets in violation of the provisions of this part, state board rules, policies of its charter school authorizer, or its charter, including the provisions governing the closure of a charter school under Section 53A-1a-510.5.

Amended by Chapter 363, 2014 General Session

53A-1a-518. Regulated transactions and relationships -- Definitions -- Rulemaking.

(1) As used in this section:

(a) "Charter school officer" means:

- (i) a member of a charter school's governing board;
 - (ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or
 - (iii) the chief administrative officer of a charter school.
- (b) (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.
- (ii) "Employment" does not include a charter school volunteer.
- (c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- (2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.
- (b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:
- (i) disclose the relationship, in writing, to the other charter school officers;
 - (ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
 - (iii) abstain from voting on the issue; and
 - (iv) be absent from any meeting when the employment is being considered and determined.
- (3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.
- (b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the charter school officer shall:
- (i) disclose the financial interest, in writing, to the other charter school officers;
 - (ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
 - (iii) abstain from voting on the issue; and
 - (iv) be absent from any meeting when the contract or transaction is being considered and determined.
- (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:
- (i) the chief administrative officer of a charter school; or
 - (ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).
- (4) The State Board of Education or State Charter School Board may not operate a charter school.

Amended by Chapter 162, 2010 General Session

53A-1a-519. Charter school students' participation in extracurricular activities at other public schools.

(1) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:

(a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides;

(b) the public school from which the student withdrew for the purpose of attending a charter school; or

(c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate on the campus of the public school.

(2) In addition to the public schools listed in Subsection (1), the State Board of Education may establish rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection (1).

(3) A school other than a school described in Subsection (1)(a), (b), or (c) may allow a charter school student to participate in extracurricular activities other than:

(a) interschool competitions of athletic teams sponsored and supported by a public school; or

(b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.

(4) A charter school student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.

(5) A school district or public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the public school.

(6) (a) The State Board of Education shall make rules establishing fees for charter school students' participation in extracurricular activities at school district schools.

(b) The rules shall provide that:

(i) charter school students pay the same fees as other students to participate in extracurricular activities;

(ii) charter school students are eligible for fee waivers pursuant to Section 53A-12-103;

(iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and

(iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.

(c) In determining a charter school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

(7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and

participate in the activity as provided in this section.

Amended by Chapter 433, 2011 General Session

53A-1a-520. Accountability -- Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with chartering entities, the State Board of Education shall make rules that:

- (1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;
- (2) require an authorizer to:
 - (a) visit a charter school at least once during:
 - (i) its first year of operation; and
 - (ii) the review period described under Subsection (3); and
 - (b) provide written reports to its charter schools after the visits; and
- (3) establish a review process that is required of a charter school once every five years by its authorizer.

Amended by Chapter 363, 2014 General Session

53A-1a-521. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.

(2) (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time the applicant files the application with the board of trustees.

(b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).

(3) (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.

(b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.

(c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.

(4) The State Board of Education shall make a rule providing a timeline for the

opening of a charter school following the approval of a charter school application by a board of trustees.

(5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (6)(a) shall be:

- (i) paid to the board of trustees' higher education institution; and
- (ii) expended as directed by the board of trustees.

(7) A board of trustees shall:

(a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;

(b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and

(c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.

(8) (a) In addition to complying with the requirements of this section, a campus board of directors of a college campus within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.

(b) If a campus board of directors of a college campus with the Utah College of Applied Technology approves an application to establish and operate a charter school, the campus board of directors of the college campus shall submit the application to the Utah College of Applied Technology Board of Trustees.

(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days of receipt of the application, approve or deny the application approved by the campus board of directors.

(d) The Utah College of Applied Technology Board of Trustees may deny an application approved by a campus board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

- (i) an enrollment decline;
- (ii) a decrease in funding; or
- (iii) a modification of programs or services.

(9) (a) Subject to the requirements of this part, a campus board of directors of a college campus within the Utah College of Applied Technology may establish:

(i) procedures for submitting applications to establish and operate a charter school to a campus board of directors of a college campus within the Utah College of Applied Technology; and

(ii) criteria for a campus board of directors' approval of an application to establish and operate a charter school.

(b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).

(10) Before a board of trustees accepts a charter school application, the board of trustees shall, in accordance with State Board of Education rules, establish and make public the board of trustees':

(a) application requirements, in accordance with Section 53A-1a-504;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, financial, and enrollment standards.

Amended by Chapter 189, 2014 General Session

Amended by Chapter 363, 2014 General Session

53A-1a-522. Charter School Revolving Account.

(1) As used in this section, "account" means the Charter School Revolving Account.

(2) (a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:

(i) meet school building construction and renovation needs; and

(ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The State Board of Education, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the State Board of Education.

(3) The Charter School Revolving Account shall consist of:

(a) money appropriated to the account by the Legislature;

(b) money received from the repayment of loans made from the account; and

(c) interest earned on money in the account.

(4) The state superintendent of public instruction shall make loans to charter schools from the account to pay for the costs of:

(a) planning expenses;

(b) constructing or renovating charter school buildings;

(c) equipment and supplies; or

(d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) (a) The State Board of Education shall establish a committee to:

(i) review requests by charter schools for loans under this section; and

(ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the State Board of Education.

(b) (i) A committee established under Subsection (6)(a) shall include individuals

who have expertise or experience in finance, real estate, or charter school administration.

(ii) Of the members appointed to a committee established under Subsection (6)(a):

(A) one member shall be nominated by the governor; and

(B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.

(c) If the committee recommends approval of a loan application under Subsection (6)(a)(ii), the committee's recommendation shall include:

(i) the recommended amount of the loan;

(ii) the payback schedule; and

(iii) the interest rate to be charged.

(d) A committee member may not:

(i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or

(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.

(7) A loan under this section may not be made unless the State Board of Education, in consultation with the State Charter School Board, approves the loan.

(8) The term of a loan to a charter school under this section may not exceed five years.

(9) The State Board of Education may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.

(10) (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the State Board of Education shall be deposited into the Charter School Revolving Account.

(b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Enacted by Chapter 30, 2011 General Session

53A-1a-523. Property tax exemption for property owned by a charter school.

For purposes of a property tax exemption for property of school districts under Subsection 59-2-1101(3)(a)(ii)(B), a charter school is considered to be a school district.

Enacted by Chapter 436, 2011 General Session

53A-1a-601. Job enhancements for mathematics, science, technology, and special education training.

(1) As used in this part, "special education teacher" includes occupational therapist.

(2) The Public Education Job Enhancement Program is established to attract, train, and retain highly qualified:

(a) secondary teachers with expertise in mathematics, physics, chemistry, physical science, learning technology, or information technology;

- (b) special education teachers; and
- (c) teachers in grades four through six with mathematics endorsements.
- (3) The program shall provide for the following:
 - (a) application by a school district superintendent or the principal of a school on behalf of a qualified teacher;
 - (b) an award of up to \$20,000 or a scholarship to cover the tuition costs for a master's degree, an endorsement, or graduate education in the areas identified in Subsection (2) to be given to selected public school teachers on a competitive basis:
 - (i) whose applications are approved under Subsection 53A-1a-602(4); and
 - (ii) who teach in the state's public education system for four years in the areas identified in Subsection (2);
 - (c) (i) as to the cash awards under Subsection (3)(b), payment of the award in two installments, with an initial payment of up to \$10,000 at the beginning of the term and up to \$10,000 at the conclusion of the term;
 - (ii) repayment of a portion of the initial payment by the teacher if the teacher fails to complete two years of the four-year teaching term in the areas identified in Subsection (2) as provided by rule of the State Board of Education in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, unless waived for good cause by the State Board of Education; and
 - (iii) nonpayment of the second installment if the teacher fails to complete the four-year teaching term; and
 - (d) (i) as to the scholarships awarded under Subsection (3)(b), provision for the providing institution to certify adequate performance in obtaining the master's degree, endorsement, or graduate education in order for the teacher to maintain the scholarship; and
 - (ii) repayment by the teacher of a prorated portion of the scholarship, if the teacher fails to complete the authorized classes or program or to teach in the state system of public education in the areas identified in Subsection (2) for four years after obtaining the master's degree, the endorsement, or graduate education.
- (4) An individual teaching in the public schools under a letter of authorization may participate in the cash award program if:
 - (a) the individual has taught under the letter of authorization for at least one year in the areas referred to in Subsection (2); and
 - (b) the application made under Subsection (3)(a) is based in large part upon the individual receiving a superior evaluation as a classroom teacher.
- (5) (a) The program may provide for the expenditure of up to \$1,000,000 of available money, if at least an equal amount of matching money becomes available, to provide professional development training to superintendents, administrators, and principals in the effective use of technology in public schools.
- (b) An award granted under this Subsection (5) shall be made in accordance with criteria developed and adopted by the State Board of Education and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (c) An amount up to \$120,000 of the \$1,000,000 authorized in Subsection (5)(a) may be expended, regardless of the matching money being available.

Amended by Chapter 413, 2013 General Session

53A-1a-701. Title.

This part is known as the "Carson Smith Scholarships for Students with Special Needs Act."

Enacted by Chapter 35, 2005 General Session

53A-1a-702. Findings and purpose.

The Legislature finds that:

- (1) the state system of public education as established and maintained under the state constitution shall be open to all children of the state;
- (2) students with disabilities have special needs that merit educational alternatives which will allow students to learn in an appropriate setting and manner;
- (3) those needs may include teachers trained in special teaching methods, small class sizes, and special materials, equipment, and classroom environments;
- (4) parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their children;
- (5) the establishment of this scholarship program is justified on the basis of funding the special needs of students with disabilities as with other programs similarly funded by the state for people with disabilities;
- (6) children, parents, and families are the primary beneficiaries of the scholarship program authorized in this part and any benefit to private schools, sectarian or otherwise, is purely incidental;
- (7) the scholarship program authorized in this part is:
 - (a) enacted for the valid secular purpose of tailoring a student's education to that student's specific needs;
 - (b) neutral with respect to religion;
 - (c) provides limited assistance to citizens who are then able to direct their resources to religious and secular schools solely as a result of their genuine and independent private choices; and
 - (d) in accordance with the best interests of the taxpayers and citizens of the state to encourage educational opportunities; and
- (8) nothing in this part shall be construed as a basis for granting vouchers or tuition tax credits for any other students, with or without disabilities.

Enacted by Chapter 35, 2005 General Session

53A-1a-703. Definitions.

As used in this part:

- (1) "Assessment team" means a team consisting of:
 - (a) the student's parent or guardian;
 - (b) the student's private school classroom teacher;
 - (c) special education personnel from the student's school district; and
 - (d) if available, special education personnel from the private school at which the student is enrolled.
- (2) "Board" means the State Board of Education.

(3) "Eligible private school" means a private school that meets the requirements of Section 53A-1a-705.

(4) "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5) "Scholarship student" means a student who receives a scholarship under this part.

(6) "Value of the weighted pupil unit" means the amount established each year in statute that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Amended by Chapter 3, 2010 General Session

53A-1a-704. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

(i) an intellectual disability;

(ii) a hearing impairment;

(iii) a speech or language impairment;

(iv) a visual impairment;

(v) a serious emotional disturbance;

(vi) an orthopedic impairment;

(vii) autism;

(viii) traumatic brain injury;

(ix) other health impairment;

(x) specific learning disabilities; or

(xi) a developmental delay, provided the student is at least five years of age, pursuant to Subsection (2)(c), and is younger than eight years of age;

(c) the student shall be at least five years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

(4) (a) To receive a full-year scholarship under this part, a parent of a student shall submit to the school district where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.

(b) The board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5) (a) The scholarship application form shall contain the following statement:
"I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) (a) A scholarship shall remain in force for three years.

(b) A scholarship shall be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(c) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(d) A scholarship shall be extended for successive three-year periods as provided in Subsections (6)(a) and (b):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is age 22.

(7) A student's parent, at any time, may remove the student from a private

school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student may not participate in a dual enrollment program pursuant to Section 53A-11-102.5.

(9) The parents or guardians of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

(10) (a) A school district or charter school shall notify in writing the parents or guardians of students enrolled in the school district or charter school who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.

(b) The notice described under Subsection (10)(a) shall:

(i) be provided no later than 30 days after the student initially qualifies for an IEP;

(ii) be provided annually no later than February 1 to all students who have an IEP; and

(iii) include the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.

(c) A school district, school within a school district, or charter school that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the school district's or school's website, if the school district or school has one.

Amended by Chapter 278, 2014 General Session

53A-1a-705. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) (A) obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(I) the audit shall be performed in accordance with generally accepted auditing standards;

(II) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(III) the audited financial statements shall be as of a period within the last 12 months; or

(B) contract with a licensed independent certified public accountant to perform an agreed upon procedure as follows:

(I) the agreed upon procedure shall be to determine that the private school has adequate working capital to maintain operations for the first full year; and

(II) working capital shall be calculated by subtracting current liabilities from

current assets; and

(ii) submit the audit report or report of the agreed upon procedure to the board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, including the cost of those services;

(f) (i) administer an annual assessment of each scholarship student's academic progress;

(ii) report the results of the assessment to the student's parent; and

(iii) make the results available to the assessment team evaluating the student pursuant to Subsection 53A-1a-704(6);

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools;

or

(iii) have the necessary special skills, knowledge, or expertise that qualifies them to provide instruction:

(A) in the subjects taught; and

(B) to the special needs students taught; and

(h) provide to parents the relevant credentials of the teachers who will be teaching their students.

(2) A private school is not eligible to enroll scholarship students if:

(a) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(b) the report of the agreed upon procedure submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the board by May 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(6) The board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools.

(7) An approved eligible private school that changes ownership shall submit a new application to the board and demonstrate that it continues to meet the eligibility requirements of this section.

Amended by Chapter 197, 2009 General Session

53A-1a-706. Scholarship payments.

(1) (a) Scholarships shall be awarded by the board subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments.

(c) Beginning with the 2013-14 school year, the Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in grades kindergarten through 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in grades kindergarten through 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e) (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, new scholarships may not be awarded during that school year and the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year.

(2) Full-year scholarships shall be awarded in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) (a) The scholarship amount for a student who receives a waiver under Subsection 53A-1a-704(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b) (i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount

specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten program, a full-year scholarship is equal to the amount specified in Subsection (3).

(5) (a) Except as provided in Subsection (5)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with board rule, the board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(6) A parent of a scholarship student shall notify the board if the student does not have continuing enrollment and attendance at an eligible private school.

(7) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, school districts, and youth in custody to ensure that scholarship payments are not erroneously made.

(8) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (8)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney-in-fact.

Amended by Chapter 154, 2013 General Session

53A-1a-707. Board to make rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part establishing:

- (1) the eligibility of students to participate in the scholarship program; and
- (2) the application process for the scholarship program.

Amended by Chapter 382, 2008 General Session

53A-1a-708. Enforcement and penalties.

(1) (a) The board shall require private schools to submit signed affidavits assuring the private school will comply with the requirements of this part.

(b) If a school fails to submit a signed affidavit after having an opportunity to provide explanations and request delays, the board may:

- (i) deny the private school permission to enroll scholarship students; and
- (ii) interrupt disbursement of or withhold scholarship payments.

(2) The board may investigate complaints and convene administrative hearings for an alleged violation of this part.

(3) Upon a finding that this part was violated, the board may:

- (a) deny a private school permission to enroll scholarship students;

- (b) interrupt disbursement of or withhold scholarship payments; or
- (c) issue an order for repayment of scholarship payments fraudulently obtained.

Enacted by Chapter 35, 2005 General Session

53A-1a-709. Limitation on regulation of private schools.

Nothing in this part grants additional authority to any state agency or school district to regulate private schools except as expressly set forth in this part.

Enacted by Chapter 35, 2005 General Session

53A-1a-710. Review by Legislative Auditor General.

The Legislative Auditor General shall conduct a review and issue a report on the Carson Smith Scholarship Program after the conclusion of the 2006-07 school year.

Enacted by Chapter 35, 2005 General Session

53A-1a-804. Scholarship program created -- Qualifications -- Application.

(1) The Parent Choice in Education Program is created to award scholarships to students to attend a private school.

(2) To qualify for a scholarship under this part:

(a) the student's custodial parent or legal guardian shall reside within Utah;

(b) the student shall be at least five years of age before September 2 of the year in which admission to a private school is sought and under 19 years of age on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years of age on the last day of the school year as determined by the private school;

(c) the student shall meet one or more of the following criteria:

(i) the student was born after September 1, 2001;

(ii) the student was enrolled as a full-time student in a Utah public school on January 1, 2007;

(iii) the individual was not a Utah resident on January 1, 2007; or

(iv) the student's parents had an annual income less than or equal to 100% of the income eligibility guideline in the calendar year immediately preceding the school year for which a scholarship is sought; and

(d) the student may not be a recipient of a scholarship awarded under Chapter 1a, Part 7, Carson Smith Scholarships for Students with Special Needs Act.

(3) (a) To receive a scholarship, the parent of a student shall submit an application for the scholarship to the board by the June 1 preceding the school year for which a scholarship is sought, except the deadline for submitting an application for the 2007-08 school year is July 15, 2007. Along with the application, the student's parent shall submit documentation verifying income as required by board rule.

(b) The board may waive the application deadline.

(4) The board shall award scholarships by the July 1 preceding the school year for which a scholarship is sought, except the deadline for awarding scholarships for the 2007-08 school year is August 15, 2007.

(5) (a) The scholarship application form shall contain the following statement:
"I acknowledge that:

(1) A private school may not provide the same level of services that are provided in a public school.

(2) The private school in which I have chosen to enroll my child has disclosed to me the teaching credentials of the school's teachers and the school's accreditation status.

(3) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship.

(4) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student for the period in which the student receives the scholarship, including costs associated with transportation.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(6) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

Enacted by Chapter 30, 2007 General Session

53A-1a-805. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) contract with an independent certified public accountant to perform the agreed upon procedures specified in Subsection (2) and produce a report of the results which shall be submitted to the board at the times specified in Subsection (2);

(c) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(d) meet state and local health and safety laws and codes;

(e) disclose to the parent of each prospective student, before the student is enrolled, the special education services that will be provided to the student, if any, including the cost of those services;

(f) (i) annually assess the achievement of each student by administering:

(A) a norm-referenced test scored by an independent party that provides a comparison of the student's academic performance to other students on a national basis; or

(B) an alternative assessment of the student's achievement, if the student:

(I) has a disability or limited English proficiency; and

(II) would be exempt from taking a nationally norm-referenced achievement test if enrolled in a Utah public school;

(ii) report the test results to the student's parents; and

(iii) upon request, make test results available to other persons, in a manner that

does not reveal the identity of any student;

(g) employ or contract with teachers who have completed a criminal background check that complies with the requirements of Section 53A-3-410 and:

(i) hold baccalaureate or higher degrees; or

(ii) have special skills, knowledge, or expertise that qualifies them to provide instruction in the subjects taught;

(h) provide to parents the teaching credentials of the school's teachers; and

(i) provide, upon request to any person, a statement indicating which, if any, organizations have accredited the private school.

(2) (a) The agreed upon procedures to be performed pursuant to Subsection (1)(b) are as follows:

(i) (A) determine that working capital is at least 80% of average quarterly expenditures by taking total expenditures for a year and dividing it by four and then dividing average quarterly expenditures into working capital; and

(B) for a school in the first year of operations, use the estimated budget to estimate average quarterly expenditures;

(ii) (A) determine that scholarship payments are accounted for separately and reconciled to student records; and

(B) for the first year of operations, determine that procedures are in place for this accounting; and

(iii) (A) determine that expenditure of scholarship funds have been made for education expenses and is consistent with other tuition expenditures; and

(B) for the first year of operations, determine that procedures are in place for this accounting.

(b) (i) The independent certified public accountant's report on the agreed upon procedures specified in Subsection (2)(a) shall be submitted to the board when the private school applies to accept scholarship students and every four years thereafter, except as provided in Subsection (2)(b)(ii).

(ii) The board may, by rule, delay the date when the independent certified public accountant's report shall be submitted for private schools applying to accept scholarship students in the 2007-08 school year.

(3) The following are not eligible to enroll scholarship students:

(a) a school with an enrollment of fewer than 40 students;

(b) a school that operates in a residence;

(c) a school that encourages illegal conduct; or

(d) a residential treatment facility licensed by the state.

(4) (a) Except as provided in Subsection (4)(b), a private school intending to enroll scholarship students shall submit an application to the board by April 1 of the school year preceding the school year in which it intends to enroll scholarship students.

(b) A private school intending to enroll scholarship students in the 2007-08 school year shall submit an application by June 15, 2007.

(5) The board shall:

(a) approve a private school's application to enroll scholarship students if the private school meets the eligibility requirements of this section; and

(b) make available to the public a list of the eligible private schools:

(i) for the 2008-09 school year and each school year thereafter, by the April 30

preceding the school year; and

(ii) for the 2007-08 school year, by July 1, 2007.

Enacted by Chapter 30, 2007 General Session

53A-1a-806. Scholarship payments.

(1) (a) Scholarships shall be awarded by the board subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the board from the General Fund to make scholarship payments for all students projected to apply for scholarships.

(c) (i) If money is not available to pay for all scholarships requested, the scholarships shall be allocated on a random basis except that preference shall be given to students who received scholarships in the previous year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships:

(A) new scholarships may not be awarded during that school year;

(B) the money available for scholarships shall be prorated among the eligible students who received scholarships in the previous year; and

(C) the board shall request a supplemental appropriation from the Legislature to make full scholarship payments as provided in Subsection (4) or (5).

(2) (a) Scholarships shall be awarded based upon the income of a scholarship student's parents in the calendar year immediately preceding the school year for which a scholarship is sought.

(b) (i) The board shall make rules specifying how the income of a prospective scholarship student's parents shall be determined and verified.

(ii) The rules shall provide that the scholarship shall be based upon parental income as follows:

(A) if the parents are married, the income of both parents;

(B) if a parent is widowed, the income of the widowed parent;

(C) if a parent is widowed and has remarried, the income of the parent and stepparent;

(D) if the parents are divorced, the income of the parent with whom the scholarship student resided for the greatest amount of time during the past 12 months;

(E) if the parents are divorced and the scholarship student resided with each parent an equal amount of time, the income of the parent who provided more financial support during the past 12 months;

(F) if the divorced parent with whom the scholarship student resided for the greatest amount of time or who provided the greatest financial support has remarried, the income of the parent and stepparent; and

(G) if the scholarship student resides with a guardian, the income of the guardian, unless the guardian's income is exempt by board rule.

(iii) The rules shall provide that:

(A) if a parent filed federal or state income tax forms, income shall be based upon adjusted gross income as listed on the income tax forms;

(B) if a parent was exempt from filing federal and state income tax forms,

income shall be based on income earned from work; and

(C) a parent shall submit documentation verifying income.

(3) (a) The board shall compare the income of a scholarship student's parents to the maximum annual incomes listed in the income eligibility guideline as defined in Section 53A-1a-803 to set the scholarship amount.

(b) In determining scholarship amounts, the board shall use:

(i) the income eligibility guideline in effect for the school year immediately preceding the school year for which a scholarship is sought; and

(ii) the scholarship student's household size as the applicable household size for the purpose of determining maximum annual income under the income eligibility guideline.

(4) Full-year scholarships shall be awarded in the amounts shown in the following table, or for the amount of tuition for a full year, whichever is less.

If the annual income of a scholarship student's parents is:	The full-year scholarship amount is:
Less than or equal to 100% of the income eligibility guideline	\$3,000
Greater than 100% but less than or equal to 125% of the income eligibility guideline	\$2,750
Greater than 125% but less than or equal to 150% of the income eligibility guideline	\$2,500
Greater than 150% but less than or equal to 175% of the income eligibility guideline	\$2,250
Greater than 175% but less than or equal to 200% of the income eligibility guideline	\$2,000
Greater than 200% but less than or equal to 225% of the income eligibility guideline	\$1,750
Greater than 225% but less than or equal to 250% of the income eligibility guideline	\$1,000
Greater than 250% of the income eligibility guideline	\$500

(5) The full-year scholarship amounts shown in the table in Subsection (4) apply to scholarships for all grades except kindergarten. The full-year scholarship amount for kindergarten shall be .55 times the amounts shown in the table in Subsection (4).

(6) The board shall annually increase the full-year scholarship amounts shown in the table in Subsection (4) by the same percentage annual increase in the value of the weighted pupil unit established in Section 53A-17a-103.

(7) (a) Except as provided in Subsection (7)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and

attendance at, a private school, the board shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 15 of each school year in which a scholarship is in force.

(b) In accordance with board rule, the board shall make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(8) A parent of a scholarship student and the student's private school shall notify the board if the student does not have continuing enrollment and attendance at the private school.

(9) Before scholarship payments are made, the board shall cross-check enrollment lists of scholarship students, school districts, and youth in custody to ensure that scholarship payments are not erroneously made.

(10) (a) Scholarship payments shall be made by the board by individual warrant made payable to the student's parent and mailed by the board to the private school. The parent shall restrictively endorse the warrant to the private school for deposit into the account of the private school.

(b) A person, on behalf of a private school, may not accept a power of attorney from a parent to sign a warrant referred to in Subsection (10)(a), and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a private school, as the parent's attorney in fact.

Amended by Chapter 342, 2011 General Session

53A-1a-808. Board to make rules.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules consistent with this part:

(a) establishing the application process for the scholarship program, including procedures to allow a parent to apply for a scholarship online;

(b) establishing how the income of a scholarship student's parents shall be determined and verified; and

(c) implementing Section 53A-1a-807.

(2) By May 15, 2007, the board shall adopt rules establishing:

(a) the application process for private schools and scholarship students; and

(b) how the income of a scholarship student's parents shall be determined.

Amended by Chapter 382, 2008 General Session

53A-1a-811. Review by legislative auditor general.

The legislative auditor general shall conduct a review and issue a report on the Parent Choice in Education Program after the conclusion of the 2011-12 school year.

Enacted by Chapter 30, 2007 General Session

53A-1a-1001. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the State Board of Education under Section 53A-1a-1002.

(2) "Low income" means an income below 185% of the federal poverty guideline.

(3) "Preschool children" means children who are:

(a) age four or five; and

(b) have not entered kindergarten.

(4) "UPSTART" means the pilot project established by Section 53A-1a-1002 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Amended by Chapter 102, 2014 General Session

53A-1a-1002. UPSTART program to develop school readiness skills of preschool children.

(1) UPSTART, a pilot project that uses a home-based educational technology program to develop school readiness skills of preschool children, is established within the public education system.

(2) UPSTART is created to:

(a) evaluate the effectiveness of giving preschool children access, at home, to interactive individualized instruction delivered by computers and the Internet to prepare them academically for success in school; and

(b) test the feasibility of scaling a home-based curriculum in reading, math, and science delivered by computers and the Internet to all preschool children in Utah.

(3) The State Board of Education shall contract with an educational technology provider, selected through a request for proposals process, for the delivery of a home-based educational technology program for preschool children that meets the requirements of Subsection (4).

(4) A home-based educational technology program for preschool children shall meet the following standards:

(a) the contractor shall provide computer-assisted instruction for preschool children on a home computer connected by the Internet to a centralized file storage facility;

(b) the contractor shall:

(i) provide technical support to families for the installation and operation of the instructional software; and

(ii) provide for the installation of computer and Internet access in homes of low income families that cannot afford the equipment and service;

(c) the contractor shall have the capability of doing the following through the Internet:

(i) communicating with parents;

(ii) updating the instructional software;

(iii) validating user access;

(iv) collecting usage data;

(v) storing research data; and

(vi) producing reports for parents, schools, and the Legislature;

- (d) the program shall include the following components:
 - (i) computer-assisted, individualized instruction in reading, mathematics, and science;
 - (ii) a multisensory reading tutoring program; and
 - (iii) a validated computer adaptive reading test that does not require the presence of trained adults to administer and is an accurate indicator of reading readiness of children who cannot read;
 - (e) the contractor shall have the capability to quickly and efficiently modify, improve, and support the product;
 - (f) the contractor shall work in cooperation with school district personnel who will provide administrative and technical support of the program as provided in Section 53A-1a-1003;
 - (g) the contractor shall solicit families to participate in the program as provided in Section 53A-1a-1004; and
 - (h) in implementing the home-based educational technology program, the contractor shall seek the advise and expertise of early childhood education professionals within the Utah System of Higher Education on issues such as:
 - (i) soliciting families to participate in the program;
 - (ii) providing training to families; and
 - (iii) motivating families to regularly use the instructional software.
- (5) The contract shall provide funding for a home-based educational technology program for preschool children for one year with an option to extend the contract for additional years or to expand the program to a greater number of preschool children, subject to the appropriation of money by the Legislature for UPSTART.
- (6) (a) The State Board of Education shall issue a request for proposals for a home-based educational technology program for preschool children that takes effect upon the expiration of the pilot project on July 1, 2019, provided that the Legislature reauthorizes and funds the program.
- (b) The State Board of Education shall evaluate a proposal based on:
- (i) whether the home-based educational technology program meets the standards specified in Subsection (4);
 - (ii) the results of an independent evaluation of the home-based educational technology program;
 - (iii) the experience of the home-based educational technology program provider;
- and
- (iv) the per pupil cost of the home-based educational technology program.

Amended by Chapter 102, 2014 General Session

53A-1a-1003. School district participation in UPSTART.

- (1) A school district may participate in UPSTART if the local school board agrees to work in cooperation with the contractor to provide administrative and technical support for the pilot project.
- (2) Family participants in UPSTART shall be solicited from school districts that participate in UPSTART.
- (3) A school district that participates in UPSTART shall:

- (a) receive funding for:
 - (i) paraprofessional and technical support staff; and
 - (ii) travel, materials, and meeting costs of the program;
- (b) participate in program training by the contractor; and
- (c) agree to adopt standardized policies and procedures in implementing the pilot project.

Enacted by Chapter 397, 2008 General Session

53A-1a-1004. Family participation in UPSTART.

- (1) The contractor shall solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts.
 - (2) (a) Preschool children who participate in UPSTART shall:
 - (i) be from families with diverse socioeconomic and ethnic backgrounds; and
 - (ii) reside in different regions of the state in both urban and rural areas.
 - (b) (i) If the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation, the contractor shall give priority to preschool children from low income families and preschool children who are English language learners.
 - (ii) At least 30% of the preschool children who participate in UPSTART shall be from low income families.
- (3) A low income family that cannot afford a computer and Internet service to operate the instructional software may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the family's participation in the pilot project.
- (4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the State Board of Education and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.
- (b) The State Board of Education and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

Amended by Chapter 102, 2014 General Session

53A-1a-1005. Purchase of equipment and service through cooperative purchasing contracts.

The State Board of Education or a school district may purchase computers, peripheral equipment, and Internet service for low income families who cannot afford them through cooperative purchasing contracts administered by the state Division of Purchasing and General Services.

Enacted by Chapter 397, 2008 General Session

53A-1a-1006. Audit and evaluation.

- (1) The state auditor shall:

- (a) conduct an annual audit of the contractor's use of funds for UPSTART; or
- (b) contract with an independent certified public accountant to conduct an annual audit.
- (2) The State Board of Education shall:
 - (a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;
 - (b) reimburse the state auditor for the actual and necessary costs of the audit; and
 - (c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.
- (3) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% may be used for the evaluation of the program.

Enacted by Chapter 397, 2008 General Session

53A-1a-1007. Annual report.

- (1) The State Board of Education shall make a report on UPSTART to the Education Interim Committee by November 30 each year.
- (2) The report shall:
 - (a) address the extent to which UPSTART is accomplishing the purposes for which it was established as specified in Section 53A-1a-1002; and
 - (b) include the following information:
 - (i) the number of families:
 - (A) volunteering to participate in the program;
 - (B) selected to participate in the program;
 - (C) requesting computers; and
 - (D) furnished computers;
 - (ii) the frequency of use of the instructional software;
 - (iii) obstacles encountered with software usage, hardware, or providing technical assistance to families;
 - (iv) student performance on pre-kindergarten and post-kindergarten assessments conducted by school districts and charter schools for students who participated in the home-based educational technology program and those who did not participate in the program; and
 - (v) as available, the evaluation of the program conducted pursuant to Section 53A-1a-1006.

Enacted by Chapter 397, 2008 General Session